



1/20/2009

Real Estate Appraisals

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Mr. Jay Erickson
Managing Partner
Montana Land Reliance
Helena, Montana

EXHIBIT 5
DATE 1-22-09
HB 249

Re: House Bill 249

Dear Mr. Erickson,

I will not be able to attend the legislative session today relative to testimony regarding HB249. I do ask however that you place my letter on record as written comment.

My comments relative to HB249 are based in my expertise as a rural land appraiser in Montana for 30 years and as a leading national expert on conservation easement valuation.

The non possessory ownership rights conveyed by the granting of a conservation easement do not provide marketable assets to the Donee. The rights have no demonstrable market, thus no market value. They are non economic rights that allow no physical use and the Donee receives no income from the rights, except in the specific instance of condemnation.

The rights conveyed do cause a loss in value to the Donor as the rights are permanently taken away from, and restrict the utility of the burdened property, but this is not the issue here. I am not suggesting that the encumbered, physical property, does not have market value, but the non possessory rights are a different ownership.

Any appraisal valuation of these rights at this time would be speculative and in violation of appraisal laws without the use of extraordinary assumptions that would basically make any value conclusion, pointless, or should I say worthless.

Respectfully submitted,

N. Clark Wheeler, Broker
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